Filed 7/10/19 In re A.C. CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re A.C., a Person Coming Under the Juvenile Court Law.	B291496 (Los Angeles County Super. Ct. No. 17LJJP00236)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. R.C., Defendant and Appellant.	

APPEAL from orders of the Superior Court of Los Angeles County, Akemi Arakaki, Judge. Affirmed.

Law Offices of Vincent W. Davis & Associates and Stephanie M. Davis for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine Miles, Assistant County Counsel, and Kim Nemoy, Deputy County Counsel, for Plaintiff and Respondent.

A.C. (now 18) reported that her stepfather, K.N. (stepfather) repeatedly sexually abused her when she was 12 years old. Although the resulting Department of Children and Family Services (DCFS) investigation was inconclusive, A.C. moved from the home of her mother, Aubrey N. (mother) and stepfather to live with her father, R.C. (father) and his girlfriend Cynthia R. (girlfriend). A.C. reported that shortly after she moved in with father and girlfriend, father began sexually abusing A.C.

After the jurisdiction and disposition hearings, the juvenile court found that A.C. was a person described by Welfare and Institutions Code section 300, subdivisions (b) and (d).[1] The juvenile court removed A.C. from the parents' physical custody and placed her under DCFS supervision. Father appeals from those orders. Because we find no error in the juvenile court's orders, we affirm.

BACKGROUND

In November 2017, A.C. told a friend at school that her father had been sexually abusing her for two years. Although A.C. asked the friend not to tell anyone, the friend reported A.C.'s allegations. Law enforcement detained A.C. and her half brother,

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[1] Statutory references are to the Welfare and Institutions Code unless otherwise specified.

Ezra C. from father and girlfriend (Ezra's mother) and released the two children to DCFS.

During her interview with DCFS social workers, A.C. reported that father began sexually abusing her when she was about 14. The abuse started, according to A.C., when she was experiencing nightmares and would go to father's room for emotional support (after she had moved to father's home following allegations of stepfather's sexual abuse). Father continued sexually abusing A.C. for about two years before the referral to DCFS.

On December 5, 2017, DCFS filed a petition in the juvenile court alleging that A.C. was a person described by section 300, subdivisions (b) and (d). On July 9, 2018, at the conclusion of a multi-day jurisdiction hearing, the juvenile court amended the petition (striking two counts and striking a word from two other counts) and sustained the amended petition, finding that A.C. was a person described by section 300, subdivisions (b) and (d). At the disposition hearing, the juvenile court found that there was a substantial danger to A.C.'s physical health, safety, protection, and physical or emotional well-being if she were to return to the home of either parent, and no reasonable means to protect A.C.'s physical or emotional health without removing her from her parents' custody. Father filed timely notices of appeal.

DISCUSSION

We have reviewed the entire record on appeal, and are familiar with the factual allegations. We have not detailed the factual allegations here because they do not affect our determination of the legal question father posits.

Father challenges the juvenile court's jurisdictional (and therefore dispositional) findings on one ground; because there

was what father terms "overwhelming" evidence that A.C. was not credible, father facially contends the jurisdictional findings were not supported by the evidence. Appearing to understand, however, that there is substantial evidence to support the trial court's jurisdictional findings, father contends *not* that the evidence *itself* is insufficient, but rather that the juvenile court's *record* explaining why it made the credibility determinations it made is insufficient.[2] Repeatedly citing *In re Marriage of*

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[2] "In a challenge to the sufficiency of the evidence to support a jurisdictional finding, the issue is whether there is evidence, *contradicted or uncontradicted*, to support the finding. In making that determination, the reviewing court reviews the record in the light most favorable to the challenged order, resolving conflicts in the evidence in favor of that order, and giving the evidence reasonable inferences. Weighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn from evidence are the domain of the trial court, not the reviewing court. Evidence from a single witness, even a party, can be sufficient to support the trial court's findings." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450-451, italics added.) We may only reject the juvenile court's credibility determination if evidence supporting the jurisdictional findings is "inherently improbable." (*People v. Ennis* (2010) 190 Cal.App.4th 721, 728 (*Ennis*).) " ' "To warrant the rejection of the statements given by a witness who has been believed by a trial court, there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions." ' [Citations.] [¶] The inherently improbable standard addresses the basic content of the testimony itself—i.e., could that have happened?—rather than the apparent credibility of the person testifying. Hence, the requirement that the improbability must be 'inherent,' and the falsity apparent 'without resorting to inferences or deductions.' [Citation.] In other words, the challenged evidence must be improbable ' "on its

Ananeh-Firempong (1990) 219 Cal.App.3d 272, 282 (*Ananeh-Firempong*), father argues that the juvenile court was "required to articulate and reconcile the glaring inconsistencies in A[.]'s statements about the abuse by her stepfather and [father]. Only in that way could the [juvenile] court justify finding A[.] was credible and believable." Father continues: "[T]he juvenile court was required to explain, in detail, the factual and legal basis for its conclusion [A.] was credible." According to father, the juvenile court failed to do so, and in failing to do so committed reversible error. The core of father's argument is that his efforts to discredit his daughter were so forceful that they obligated (where no such obligation has ever existed before) the juvenile court to sua sponte detail each individual factual allegation, whether it believed or disbelieved the particular allegation, and what evidence it relied on to believe or disbelieve the allegation. We disagree that any such juvenile court duty exists.

The language father relies on from *Ananeh-Firempong* is inapplicable here. *Ananeh-Firempong* dealt with a situation where a party in a family law matter requested a statement of decision under Code of Civil Procedure section 632. " 'Where

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face" ' [citation], and thus *we do not compare it to other evidence* (except, perhaps, certain universally accepted and judicially noticeable facts). The only question is: Does it seem *possible* that what the witness claimed to have happened actually happened?" (*Id.* at pp. 728-729, italics added.)

As in *Ennis*, father here does not ever argue that A.C.'s testimony is *impossible*, but rather uses a "highly implausible" argument to support his contention that because the juvenile court did not detail credibility determinations the record cannot support jurisdiction. " '*Highly* implausible' is still an argument reserved for the trier of fact." (*Ennis*, *supra*, 190 Cal.App.4th at p. 724.)

counsel makes a timely request for a statement of decision upon the trial of a question of fact by the court, that court's failure to prepare such a statement is reversible error,' " the *Ananeh-Firempong* court said. (*Ananeh-Firempong*, *supra*, 219 Cal.App.3d at p. 282.) The court continued: " 'While a trial court issuing a statement of decision is required only to state ultimate rather than evidentiary facts it must, nevertheless, make such a statement. What is required is an explanation of the factual and legal basis for the court's decision as to the principal controverted issues at trial which are specified in the party's request for statement of decision. Where the court fails to make the required explanation reversible error results.' " (*Ibid.*)

There was no such request here, and neither would have a request for a statement of decision been appropriate here. "Code of Civil Procedure section 632, concerning statements of decision, does not apply to [juvenile dependency] proceedings." (*In re Ammanda G.* (1986) 186 Cal.App.3d 1075, 1081.) "In a juvenile dependency hearing, such as this . . . , the court . . . is required only 'to make a finding, noted in the minutes of the court, whether or not the minor is a person described by statute as a dependent child, predelinquent juvenile, or delinquent juvenile. Specific findings need not be made; a general finding that the allegations of the petition are true is sufficient to show the facts upon which the court exercises its jurisdiction.' " (*Ibid.*)

We also disagree with the basic premise of father's contention; that the juvenile court did not create a record of its credibility determinations. The juvenile court expressly did just that. At length and in great detail, the juvenile court articulated why it believed A.C.'s testimony, including incorporation of testimony from an expert witness about children's memories of

sexual abuse and their disclosure of that abuse, and including specific details A.C. testified about. The juvenile court also stated why it discredited other testimony, including girlfriend's testimony that flatly contradicted statements girlfriend made to investigators. The record the juvenile court created of its findings is an object lesson in the policy behind the limits on an appellate court's reconsideration of credibility determinations. "The law has long recognized the problem of appellate review in the matter of credibility of witnesses based upon their demeanor, and for that reason the rule has evolved that the trier of facts is the sole and exclusive judge of the credibility of witnesses as determined by their demeanor. A written transcript of testimony is but a pallid reflection of what actually happens in a trial court. ' "The best and most accurate record is like a dehydrated peach; it has neither the substance nor the flavor of the fruit before it was dried." It resembles a pressed flower.' [Citation.] 'The cold record cannot give the look or manner of the witnesses; their hesitations, their doubts, their variations of language, their precipitancy, their calmness or consideration. A witness may convince all who hear him testify that he is disingenuous and untruthful, and yet his testimony when read, may convey a most favorable impression.' " (*Meiner v. Ford Motor Co.* (1971) 17 Cal.App.3d 127, 140.)

The record here includes clear and reasoned credibility determinations, clear findings of fact, and clear applications of those facts to the applicable statutory provisions. Additionally, however, and more to the basic premise of father's contentions, in virtually every contested case that comes through a California courtroom, there will be witnesses whose credibility is challenged. That a witness's credibility is challenged does not by

itself create an obligation for the trier of fact to create a record about why it chose to nevertheless credit the witness's testimony. Father's contention to the contrary has no support in the record. And all of that is in spite of the fact that the juvenile court was under no obligation to create the detailed record it did.

DISPOSITION

The juvenile court's jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED.

CHANEY, J.

We concur:

ROTHSCHILD, P. J.

BENDIX, J.